IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 13705 of 2006(F)

PETITIONER:

N.V.CHACKO, NEDUMBA PAMBAKKUDA VEEDU,
THIRUMARADI VILLAGE, KAKKOOR KARA,
ERNAKULAM DISTRICT.

BY ADV. SRI.M.C.NAMBIAR

RESPONDENTS:
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1. REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA.

2. VILLAGE OFFICER,
THIRUMARADI VILLAGE, POST KAKKOOR.

3. STATE OF KERALA, REPRESENTED
BY CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

4. ASSISTANT MANAGER,
OIL PALM INDIA LTD., KOTTAYAM.

5. CIRCLE INSPECTOR OF POLICE,
PIRAVAM.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.
SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, ALONG WITH W.P.C.NO.13594/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : CASH RECEIPT ISSUED BY THE 4TH RESPONDENT DT. 23.11.2005.

EXT.P2 : TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT DT. 28.1.2006.

EXT.P3 : EXPLANATION SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT DT. 2.2.2006.

EXT.P4 : TRUE COPY OF THE SKETCH SHOWING THE LIE OF THE LAND.

EXT.P5 : LETTER RECEIVED FROM THE 4TH RESPONDENT GRANTING SUBSIDY FOR THE PLANTATION.

TGS

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) Nos.13705/06 & 13594/07

Dated 4th June, 2007.

J U D G M E N T

Kurian Joseph, J.

Petitioner is one and the same in both the writ petitions. The former is filed praying for a direction to the first respondent to permit the petitioner to fill the water logged area of Oil Palm cultivated land before the onset of monsoon. In the counter affidavit filed on behalf of the first respondent, it is stated that steps taken by the petitioner for conversion of the wet land to garden land was in violation of the Kerala Land Utilization Order, 1967 and that during the pendency of the writ petition, the Revenue Divisional Officer has issued 'Form E' notice dated 9.5.2006. It is also stated that the notice was duly served on the petitioner. Thus, the Revenue Divisional Officer is seized of the matter. In that view of the matter, we do not propose to go into the various contentions taken by the petitioner, including the contention that permit as such from the Revenue Divisional Officer is not necessary, since those are all matters for the Revenue Divisional Officer to consider while passing final orders. Accordingly, W.P.(C) No.13705/06 is disposed of directing the first respondent to dispose of the case pending before him with regard

to the alleged unauthorised filling of wet land, in accordance with law, within a period of four months from the date of receipt of a copy of the judgment. The petitioner and the party respondents will also be afforded an opportunity for hearing. Needless to say that the first respondent will advert to the contentions taken by the parties and pass a reasoned order.

2. The prayer in W.P.(C) No.13594/07 is for police protection for the conversion of water logged area. In view of the judgment in the former writ petition, it is not necessary to consider this writ petition on merits, since the writ petitioner can proceed with the activity, only if the same is duly permitted by the Revenue Divisional Officer. We make it clear that in case the petitioner is given due sanction for the filling, and in case there is any obstruction, it will be open to the petitioner to approach the police, in which case, appropriate action in accordance with law in the matter will be taken by the police.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 4th June, 2007.